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United States District Court
Eastern District of Washington
Honorable Salvador Mendoza, Jr.

United States of America,

Plaintiff,

v.

James Dean Cloud,

Defendant.

No. 1:19-CR-2032-SMJ-1

Unopposed Motion to Continue¹

October 8, 2019 – 8:30 a.m.

Yakima – With Argument

¹ The United States does not object to this continuance request.

1 On July 17, 2019, a grand jury charged James Cloud with 1) carjacking,
2 2) possessing a firearm in connection with a crime of violence, 3) kidnapping, and
3 4) assault with a dangerous weapon.² After an initial pretrial conference on July 18,
4 2019, the Court set a new pretrial conference for October 8, 2019, and a new trial for
5 October 28, 2019.³ Mr. Cloud asks the Court to continue the trial until Spring 2020
6 for the following reasons:

7 ***The need to receive—and review—un-redacted discovery.*** To date, the United
8 States has provided 3000+ pages of discovery, which includes redacted police
9 reports, redacted autopsy reports, and redacted photo line-ups. The extensive
10 redactions make the discovery difficult to review. To ease the review process,
11 Mr. Cloud asked the United States for un-redacted discovery, a request which the
12 United States is working on.⁴ Once the un-redacted discovery is provided,
13 Mr. Cloud will need time to review it.

14 ***The need to receive—and review—forensic evidence.*** Missing from the United
15 States' discovery disclosures to date are fingerprint reports, DNA reports, and
16
17

18 ² ECF No. 59.

19 ³ ECF Nos. 70, 79.

⁴ To assuage the United States' privacy concerns, Mr. Cloud's defense team will enter into a protective order.

1 firearms reports (i.e., the forensic evidence). Mr. Cloud needs time to receive and
2 review this additional evidence, as it will be pivotal in shaping pretrial strategy.

3 ***The need to hire experts.*** Once Mr. Cloud receives the forensic evidence, he
4 anticipates hiring experts, including 1) a fingerprint expert, 2) a DNA expert, 3) a
5 ballistics expert, and 4) a forensic pathologist. There will be others. Retaining these
6 experts—and securing reports—will take time.

7 ***The need to prepare pretrial motions.*** Only after Mr. Cloud receives—and
8 reviews—all the discovery will he be able to meaningfully assess pretrial motions.
9 There will be many.

10 Given Mr. Cloud's need to receive discovery, review discovery, hire experts,
11 and examine pretrial motions, a valid basis for a trial continuance exists, and the
12 ends of justice served by granting a continuance outweigh the interests of the public
13 and Mr. Cloud in a speedy trial.⁵ Importantly, denying a continuance would not only
14 result in a miscarriage of justice, but also deny defense counsel the reasonable time
15 necessary for effective preparation, taking into account the exercise of due
16 diligence.⁶

17 Mr. Cloud therefore requests the Court take the following actions:

18 _____
⁵ See 18 U.S.C. § 3161(h)(7)(A).

19 ⁶ See 18 U.S.C. §§ 3161(h)(7)(B)(i), (iv).

- 1) continue the trial date to March 30, 2020⁷;
- 2) exclude all appropriate time under the Speedy Trial Act;
- 3) set a new PTC in Richland at 9:00 a.m. on February 27, 2020⁸; and
- 4) set a case management order consistent with the parties' proposed deadlines (see below).

Proposed Deadlines		
#	Deadline	Date
1	Disclose all discovery	January 16, 2020
2	Alibi Notices	January 16, 2020
3	Rule 404(b) + 609 Notices	January 16, 2020
4	Rule 16 expert summaries (both parties)	January 23, 2020
5	Pretrial motions	February 6, 2020
6	CI information	March 6, 2020
7	Grand jury information	March 6, 2020
8	Trial Notices	March 20, 2020
9	Exhibit lists (both parties)	March 20, 2020
10	Witness lists (both parties)	March 20, 2020

⁷ This date was provided by Chambers. That said, Donovan Cloud's defense attorney, Rick Smith, indicated he will be out-of-the-district from March 27, 2020, until March 31, 2020, so a different date that works for all parties will need to be discussed at the October 8, 2019 pretrial conference.

⁸ This date was provided by Chambers.

Proposed Deadlines		
11	Exhibit binders/JERS-compatible digital evidence delivered to Court	March 20, 2020
12	Trial materials (briefs, JIs, and voir dire)	March 20, 2020
13	Technology readiness meeting	March 23, 2020
14	Jury trial	March 30, 2020

Dated: September 14, 2019

Federal Defenders of Eastern Washington & Idaho
Attorneys for James Dean Cloud

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Service Certificate

I certify that on September 14, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will notify Assistant United States Attorneys: Tom Hanlon & Rich Burson.

s/ John B. McEntire IV
John B. McEntire, IV, WSBA #39469

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